

CHAPTER 264

AN ACT concerning school district bonds and amending various parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.18A:24-16 is amended to read as follows:

Supplemental debt statements; necessity for and contents.

18A:24-16. No school bonds or refunding bonds shall be authorized unless there shall be prepared and filed in accordance with section 18A:24-17 a supplemental debt statement in the form provided by law, setting forth the amounts of all bonds and notes of the district issued and outstanding, or authorized but not issued, and determining the net school debt of the district and giving effect to the proposed authorization of school bonds. With respect to refunding bonds, the supplemental debt statement shall reflect either new and unissued debt or the amount of the refunding debt in excess of the debt to be refunded.

2. N.J.S.18A:24-36 is amended to read as follows:

Public sale of bonds.

18A:24-36. a. All bonds authorized and issued by type II school districts in accordance with chapter 24 of Title 18A of the New Jersey Statutes, except bonds of authorized issues of \$1,000,000 or less, shall be sold at public sale upon the submission of sealed bids or through the submission of electronic proposals provided that a summary of the notice of public sale of these bonds as described in subsection b. of N.J.S.18A:24-37 shall be advertised at least once at least seven days prior thereto in a nationally recognized local government bond marketing publication or electronic information service carrying municipal bond notices and devoted primarily to financial news or the subject of state and municipal bonds and a notice of public sale containing the provisions described in subsection a. of N.J.S.18A:24-37 shall be advertised at least once at least seven days prior thereto in a newspaper published in the county and having a substantial circulation in the school district. Bonds of authorized issues of \$1,000,000 or less may be sold at private sale without previous public offering.

b. If the board of education of the district determines to conduct the public sale through the submission of electronic bids or proposals, the electronic bids or proposals shall be submitted in the form of open or closed auctions conducted through a nationally recognized electronic securities bidding service and in accordance with such rules as may be promulgated by the State Board of Education. The State board may adopt rules in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), and in consultation with the Local Finance Board in the Department of Community Affairs, regulating the terms and conditions of the submission of electronic bids or proposals.

c. The board of education of the district, by resolution, may allow or otherwise delegate to the school business administrator the authority to postpone a public sale without readvertisement, provided that the notice pursuant to subsection a. of this section contained precise information concerning the postponement and rescheduling procedure. The postponement and rescheduling procedure shall provide that a public sale may be postponed upon not less than 24 hours' notice, and that if the public sale is postponed, it may be recommenced upon not less than 48 hours' notice without further notice of sale. A public sale may not be postponed for more than 60 days without readvertisement.

d. The board of education of the district, by resolution, may allow the adjustment of, or otherwise delegate to the school business administrator the authority to adjust, the maturity schedule of the bonds, up to 24 hours prior to the time advertised for the receipt of bids and within 24 hours after the award of bids; provided that no maturity schedule adjustment shall exceed 10% of the principal for any maturity with the aggregate adjustment to maturity not to exceed 10% of the principal for the overall issue. When an adjustment has been made to a maturity schedule previously approved by the Local Finance Board in the Department of Community Affairs, a copy of the final maturity schedule which meets or complies with the limitations in this subsection shall be filed with the Local Finance Board within 30 days of the sale and shall be conclusively deemed to have been approved by the Local Finance Board.

3. N.J.S.18A:24-37 is amended to read as follows:

Notice of sale of bonds.

18A:24-37. a. The notice of sale of Type II school district bonds required to be advertised pursuant to N.J.S.18A:24-36 shall describe the bonds and set forth in substance the postponement provisions and the other terms and conditions of sale, including the type of sale to be conducted, through the submission of either sealed or electronic bids or proposals, the principal amount, date, denomination and maturities, and authorization for adjustments to the maturities pursuant to subsection d. of N.J.S.18A:24-36 of the bonds offered for sale and such other provisions as may be determined by the Type II school district. As to interest to be borne by the bonds, it shall specify a rate or rates or maximum rate, and the method of calculation of interest cost pursuant to subsection b. of N.J.S.18A:24-39, which rate or the maximum rate shall in no event exceed 6% per annum. If proposals are invited at more than one interest rate, the notice shall also state that no proposals will be considered for bonds of a rate higher than the lowest rate at which a legally acceptable proposal is received.

b. A summary of the notice of public sale of Type II school district bonds required to be advertised pursuant to N.J.S. 18A:24-36 shall set forth: the principal amount, date, denomination and maturities of the bonds offered for sale; the rate or rates of interest or maximum rate or rates of interest to be borne by the bonds; a reference to where additional terms and conditions of the public sale may be obtained; and the type of sale to be conducted, through the submission of either sealed or electronic bids or proposals.

4. N.J.S.18A:24-39 is amended to read as follows:

Special provisions for two or more issues.

18A:24-39. In case of a sale of more than one issue such notice of sale may, after describing the separate issues, provide in substance for one of the following methods of sale, namely:

a. The notice may state the combined maturities of all of said issues and request bids only for such combined maturities as if such combined maturities constituted a single issue, in which event the provisions of sections 18A:24-36 to 18A:24-46 shall apply as though the combined maturities constituted a single issue; or

b. The notice may state that bidders may name a single rate, or different rates, of interest for the different issues of bonds included in such sale, but if different rates are permitted, the notice may require a single rate for all the bonds of one issue, and that all issues will be awarded to the bidder on whose bid the total loan may be made at the lowest net interest cost or the true interest cost to the school district. The board of education of the district shall specify in its notice of public sale advertised pursuant to N.J.S.18A:24-37 whether the award shall be based on net interest cost or true interest cost. The net interest cost shall be computed by adding to the total principal amount of the bonds which the bidder offers to accept, the total interest cost to maturity which will be paid under the terms of the bid, after deducting from such interest cost the amount of cash premium, if any bid, which shall not exceed \$1,000.00 as to any one issue or the addition thereto of the amount of discount, if any, bid. The true interest cost shall be computed in each instance by determining the interest rate, compounded semi-annually, necessary to discount the debt service payments to the date of the bonds and to the price bid, excluding interest accrued to the delivery date.

c. The board of education of the district, by resolution, may allow or otherwise delegate to the school business administrator the authority to permit a bidder to aggregate the consecutive principal maturities for which such bidder bid in the same interest rate into term bonds, provided that mandatory sinking funds for which redemptions in lieu of the principal maturities are provided. For the purposes of this subsection, "term bond" means a bond that is due in a certain year but has mandatory retirement provisions for portions of the term bond on specified dates prior to the maturity date of the term bond itself.

5. N.J.S.18A:24-41 is amended to read as follows:

Deposit by bidders.

18A:24-41. a. The notice of sale shall require all bidders to deposit a certified or cashier's or treasurer's check for 2% of the amount of bonds, drawn upon a bank or trust company for said amount, partially to secure the school district from any loss resulting from the failure of the bidder to comply with the terms of his bid, or as liquidated damages for such failure.

b. The State Board of Education, in consultation with the Local Finance Board in the Department of Community Affairs, may adopt rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to permit school districts to accept a financial surety bond in lieu of a certified, cashier's or treasurer's check as required in subsection a. of this section.

6. N.J.S.18A:24-42 is amended to read as follows:

Sealed bids, proposals opened publicly.

18A:24-42. All sealed bids or proposals shall be opened publicly and all bids or proposals transmitted electronically shall be received at the time and place stated in such notice of sale, and not before, and shall be publicly announced, except upon a postponement and recommencement of the public sale made in accordance with the provisions of subsection c. of N.J.S.18A:24-36, in which case such bids or proposals shall be publicly opened, received and announced, as appropriate, at the postponed and recommenced date.

7. Section 4 of P.L.1969, c.130 (C.18A:24-61.4) is amended to read as follows:

C.18A:24-61.4 Supplemental debt statement, adoption of refunding bond ordinance; provisions.

4. A supplemental debt statement shall be prepared and filed with respect to a Type II school district, in accordance with N.J.S.18A:24-17, that reflects either new and unissued debt or the amount of the refunding debt in excess of the debt to be refunded prior to the adoption of a bond ordinance by the board of education of a Type II school district. Thereafter a refunding bond ordinance may be enacted by the board of education of any Type II school district after the approval thereof by resolution of such board of education, and by subsequent adoption thereof after advertised public hearing, notice of which shall be given by publication of such proposed refunding bond ordinance and notice of hearing once at least 7 days prior to date of such hearing, in a newspaper circulating in the school district. Following the holding of such public hearing, at which all interested persons shall be given an opportunity to be heard, such refunding bond ordinance may thereupon be adopted by the recorded affirmative vote of 2/3 of the full membership of such board of education or at such other time and place to which such hearing or further consideration thereof shall have been adjourned. The refunding bond ordinance in the case of a Type II school district shall contain in substance: (a) an authorization of the issuance of the refunding bonds, stating in brief and general terms sufficient for reasonable identification the refunded bonds to be funded or refunded, and the amount of the cost of issuing the refunding bonds which is included in the authorized principal amount of the refunding bonds; (b) the principal amount of refunding bonds authorized; and (c) in either the refunding bond ordinance or a resolution adopted prior to the issuance of the refunding bonds such further provisions as the Local Finance Board in the Department of Community Affairs of the State of New Jersey may require or approve as to deposit, securing, regulation, investment, reinvestment, disposition or application of the proceeds of such refunding bonds, and matters in connection therewith, including the officer or officers of the school district to be responsible therefor, and amortization or other provision for premiums or other losses incurred.

Such refunding bond ordinance or resolution may also contain provisions, which shall be a part of the contract with the holders of the refunding bonds, as to the establishment of, and the making of appropriations for, reserves or sinking funds and the amount, source, securing, regulation and disposition thereof. Any matter relating to refunding bonds and not required to be contained in the refunding bond ordinance may be performed or determined by subsequent resolution of the board of education, or the performance or determination thereof delegated by resolution to a financial officer of the school district.

8. Section 5 of P.L.1969, c.130 (C.18A:24-61.5) is amended to read as follows:

C.18A:24-61.5 Certified copy of refunding bond ordinance; filing.

5. a. A certified copy of any refunding bond ordinance shall be filed with the Director of the Division of Local Government Services in the Department of Community Affairs before adoption, together with a complete statement in form prescribed by the director and signed by the chief financial officer of the school district as to the outstanding bonds to be funded or refunded by issuance of the refunding bonds. Except as provided in subsection b. of this section no refunding bond ordinance or any resolution performing, determining or authorizing matters or acts in connection with refunding bonds shall take effect until the consent of the local finance board shall have been endorsed upon a certified copy thereof as adopted.

Any certification or endorsement of consent made by the local finance board or by a majority of the members thereof or by the secretary thereof pursuant to its direction as to any issue of refunding bonds shall, after the issuance of such refunding bonds in reliance thereon, be conclusive as to its validity or regularity and shall not be contested in any action or proceeding relating to such refunding bonds instituted after the issuance of such bonds.

The county, municipality or school district may enter into any contracts or agreements to implement the refunding program, including agreements with banking institutions with respect to the application of moneys deposited in a sinking fund for the payment of the refunding bonds at their maturity date to the purchase of obligations of the United States Government or obligations the principal of and interest on which are guaranteed by the United States Government or obligations of any agency or instrumentality of the United States Government without regard to any limitations as to the investment or deposit of moneys.

b. Refunding bonds to realize total debt service savings on outstanding obligations may be issued without the approval of the Local Finance Board in the Department of Community Affairs when authorized by conditions set forth in rules and regulations of the Local Finance Board and upon a resolution adopted by 2/3 vote of the full membership of the board of education of the district.

9. This act shall take effect immediately.

Approved January 14, 2004.